

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

ROBERT FRANK BOYER,)	
)	
Petitioner,)	
)	
v.)	Civil Action No. 3:23-316
)	Judge Nora Barry Fischer
MELISSA HAINSWORTH, WARDEN S.C.I.)	Magistrate Judge Keith Pesto
LAUREL HIGHLANDS,)	
)	
Respondent.)	

MEMORANDUM ORDER

AND NOW, this 17th day of January, 2025, upon consideration of the Report and Recommendation filed by United States Magistrate Judge Keith A. Pesto on June 14, 2024, (Docket No. 8), recommending that Petitioner Robert Frank Boyer's § 2254 Petition (Docket No. 6) be dismissed as untimely because the Pennsylvania Supreme Court denied review of his PCRA on September 20, 2022 and the instant Petition was dated December 12, 2023 and filed on December 22, 2023, such that it was filed was after the expiration of the 1-year statute of limitations set forth in 28 U.S.C. § 2244(d), and that no certificate of appealability should issue, and directing that objections be filed within 14 days, and the Magistrate Judge having issued another Order on September 27, 2024, (Docket No. 10), extending the time to file objections to October 15, 2024, and no objections having been received by the Court as of the date of this Order, this matter having been recently reassigned to the undersigned for prompt disposition of the matter, (Docket No. 15), and upon independent review of the record and de novo consideration of the Magistrate Judge's Report and Recommendation of June 14, 2024, (Docket No. 8),

IT IS HEREBY ORDERED that the Report and Recommendation [8] is ADOPTED as the Opinion of this Court;

IT IS FURTHER ORDERED that the Petition (Docket No. 6) is DISMISSED, as untimely;

IT IS FURTHER ORDERED that no certificate of appealability shall issue because Petitioner has not made a substantial showing of the denial of a Constitutional right or shown that jurists of reason would disagree that the Petition is untimely and that there has not been a sufficient showing that the limitations period should be tolled or that the actual innocence exception applies, *see e.g., Slack v. McDaniel*, 529 U.S. 473 (2000); and,

IT IS FURTHER ORDERED that the Clerk of Court shall mark this case CLOSED.

s/Nora Barry Fischer
Nora Barry Fischer
Senior U.S. District Judge

cc/ecf: Magistrate Judge Keith A. Pesto
All counsel of record.

cc: Robert Frank Boyer NN-5137
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